

Article - Natural Resources

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§4-2A-04.

(a) Any species of fish determined to be an endangered species pursuant to the Endangered Species Act shall be deemed to be an endangered species under the provisions of this subtitle and any species of fish determined to be a threatened species pursuant to the Endangered Species Act shall be deemed to be a threatened species under the provisions of this subtitle. The Secretary may determine, in accordance with this section, that any threatened species is an endangered species throughout all or any portion of the range of the species within the State.

(b) In addition to the species deemed to be endangered or threatened pursuant to the Endangered Species Act, the Secretary, by rule or regulation, shall determine whether any species of fish normally occurring within the State is an endangered or threatened species due to any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, educational, or other purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence within the State.

(c) The Secretary shall make determinations required by subsection (b) of this section on the basis of the best scientific, commercial, and other data available and after consultation, as appropriate, with federal agencies, other interested State agencies, other states having a common interest in the species, and interested persons and organizations. In determining whether any species of fish is an endangered species or a threatened species, the Secretary shall take into consideration any actions being carried out or about to be carried out by the federal government, other states, other agencies of this State, or political subdivisions, or by any other person, which may affect the species under consideration.

(d) Except with respect to species of fish determined to be endangered or threatened species under the provisions of subsection (a) of this section, the Secretary may not add a species to nor remove a species from any list published unless he first:

(1) Publishes a public notice of the proposed action;

(2) Furnishes notice of the proposed action to the Governor of any state sharing a common border with this State and in which the subject species is known to exist; and

(3) Allows at least 30 days following publication for comment from the public and other interested parties.

(e) Notwithstanding the provisions of subsection (d) of this section, if the Department determines that an emergency situation exists involving the continued existence of the species as a viable component of the State's fish population it may add the species to the lists if it publishes a public notice that an emergency situation exists together with a summary of facts which support this determination.

(f) The Secretary shall adopt rules and regulations containing a list of all species of fish normally occurring within the State determined to be endangered species and a list of all species determined to be threatened species. Each list shall refer to the species by scientific and common names and shall specify with respect to each species over what portion of its range it is endangered or threatened.

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